
The U.S. Approach to Combating the Spread of Small Arms

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The proliferation of illicit small arms and light weapons (SA/LW) in regions of the world suffering from political instability and violent conflict has proven a major obstacle to peace, economic development, and efforts to rebuild war-torn societies. In places like Sierra Leone, Kosovo, and Colombia, thousands of innocent civilians have been killed and tens of thousands more displaced by ethnic and civil conflicts perpetuated in large part by easy access to illicit SA/LW.

The United States is a global leader in efforts to mitigate the illicit trafficking and destabilizing accumulation of SA/LW through multilateral diplomacy and bilateral assistance to countries in need. Specifically, the United States has directed its policies at building and enhancing enforcement and legal capacities, controlling proliferation to areas of conflict, providing training on export controls and customs practices, discouraging irresponsible and indiscriminate exports, strengthening sanctions against violators of embargoes, and enhancing stockpile security and destroying excess weapons. The U.S. approach focuses on practical, effective measures to address the problem of illicit SA/LW trafficking in conflict regions where it is most urgent, while acknowledging the legitimacy of legal trade, manufacture, and ownership of arms.

Export and Import Controls

Effective export and import controls are the keystone of any successful effort to mitigate the problems of illicit trade in small arms and light weapons. In many developing countries, very few laws, if any, exist to regulate the import and export of small arms and light weapons. In places where such laws and regulations do exist, enforcement is often weak. End-use certificates, the primary means of ensuring that weapons are delivered to intended users, are easy to forge and frequently can be bought for a price in poor countries where corruption is rife.

All countries that manufacture, trade, or transit weapons, require a robust regime regulating the transfer of arms. Regulations in the *U.S. Arms Export Control Act* (AECA) govern commercial exports of all U.S. defense articles and services as well as government transfers through the foreign military sales (FMS) program. Under these regulations, U.S. government approval is required for each transaction of defense articles and services. The intended end-users are carefully vetted to ensure that they do not violate any of the principles and norms in the 1995 *U.S. Conventional Arms Transfer* (CAT) policy. Under the CAT, all commercial exports and non-commercial transfers are subject to strict criteria including: U.S. and recipient country security needs; support for foreign policy interests; risk of adverse impact on the recipient country or region; human rights, terrorism, and proliferation record of the recipient and potential for misuse; and potential for diversion or other unauthorized use.

Unauthorized re-transfers are a major source of illicitly traded SA/LW. Arms re-transferred without notification to the original exporter are frequently the nexus between legal and illegal trade. Certain countries in Africa and Latin America, for example, have become major conduits of arms to violent terrorist and insurgent groups because of lax regulation over retransfers of legitimately traded arms. The United States is one of the very few countries in the world that conditions all commercial sales and government transfers of defense articles on rigorous end-use certification, adequate security to prevent illegal diversion, and the requirement for authorization for retransfer. U.S. law prohibits arms and munitions exported from the United States from being

re-transferred by the recipient without prior U.S. government approval. Suspected violations are subject to end-use inquiries, which can result in criminal sanctions against the person or entities involved, and termination of exports to a violating country. By law all U.S. SA/LW are marked at the time of manufacture and import to assist in tracking illegal diversions.

Laws and regulations are only as good as their enforcement. While no enforcement mechanism is foolproof, the United States employs end-use checks as an instrument for deterring and ensuring that U.S. exports are not illegally diverted to undesirable end-users. When a shipment is suspected of diversion or some other violation, the Department of State and U.S. Customs Service are able to conduct end-use inquiries through a program known as "Blue Lantern." The U.S. Department of Defense (DoD) also has instituted an end-use monitoring system for foreign military sales based on the Blue Lantern program. Inquiries can range from simple interviews conducted by U.S. Customs or Department of State officers to physical inspection of shipments. Hundreds of these end-use checks are conducted worldwide each year. Known violations of U.S. export regulations have resulted in denial and suspension of licenses, criminal prosecution, and termination of all defense exports to certain countries. Persons subject to prosecution under the ITAR may face criminal penalties up to \$1 million per violation, imprisonment, or both.

Regulation of Arms Brokers

Unchecked "rogue" brokers operating with impunity due to a lack of regulation are a major source of illicitly trafficked arms around the world. Fewer than 20 countries in the world have laws regulating arms brokers. The United States prides itself as having one of the most comprehensive regimes governing international arms brokers in the world. A U.S. law approved in 1996, as an amendment to the *Arms Export Control Act* (AECA), mandates that commercial brokers engaged in the sale of U.S. defense articles must register with the Department of State's Office of Defense Trade Controls (DTC). Each transaction must also be fully authorized and licensed by DTC. Jurisdiction extends not only over U.S. citizens and foreign nationals operating in the United States, but also over U.S. citizens abroad. Finally, brokers are required to submit annual reports enumerating and describing all approved activities. The U.S. actively encourages other countries to develop robust brokering laws and procedures and has repeatedly called for international discussion on the development of model brokering regulations that could serve as a global template for national brokering laws.

Enforcement of Embargoes

Although United Nations Security Council (UNSC) resolutions impose legally binding commitments on member states, too often some members lack the political will or resources to ensure compliance with UNSC embargoes. The United States strictly observes embargoes and imposes criminal penalties on U.S. companies that violate them. The United States urges all countries to impose criminal sanctions on violators of UNSC embargoes, to support increased international cooperation, and to involve United Nations sanctions committees in efforts to identify violations and violators.

Attacking Means of Financing

A great deal of media attention has been focused on the problem of "conflict diamonds." Gems, timber, minerals, drugs, and other contraband, as well as diamonds, are bartered for arms and are also a major precipitator of conflict between rival military organizations struggling for control of lucrative concessions in some areas of conflict such as in Western, Central, and Southern Africa. The United States strongly supported a December 2000 United Nations General Assembly resolution calling for a break in the link between diamonds and conflict and a July 2000

UNSC resolution calling on member states to ban the import of diamonds from Sierra Leone unless exported under a certification process approved by the United Nations Sanctions Committee. The United States has additionally supported sanctions against Liberia and Angola relating to the trade in conflict diamonds. The United States is currently working with the diamond industry, non-governmental organizations, and governments through the so-called “Kimberly Process” to develop standards for a global certification process. Ending the export of “conflict diamonds” and other contraband will greatly aid efforts to cut off illegal sources of revenue that often fuel illicit trafficking in SA/LW.

Assistance Programs

Lack of proper laws, regulations, training and resources greatly hinder many countries’ efforts to curb illicit small arms and light weapons trafficking. The United States works bilaterally and multilaterally to offer technical and financial assistance in the areas of law enforcement, export control assistance, and stockpile management and destruction of excess SA/LW. The United States funds a variety of programs in Africa, including, notably, the African Baseline Survey on Small Arms Legislation, Regulations, and Law Enforcement Capacity for the United Nations African Institute for the Prevention of Crime and Treatment of Offenders (UNAFRI). The United States leads efforts to include national reporting on SA/LW transfers in the Wassenaar Arrangement, a 33-country organization dedicated to transparency and responsibility in arms transfers. Export control assistance is offered to countries in need of developing laws, regulations and enforcement mechanisms; in particular, we have extensive cooperation programs with former members of the Warsaw Pact. In fiscal year 2001, the United States dedicated \$2 million to global efforts to assist countries in the destruction of excess small arms and light weapons.

We believe that the approach outlined above holds the best prospects for mitigating the harmful proliferation of SA/LW in the areas of the world where action is most urgent. The United States does not support the proposals of some to totally ban civilian possession of firearms. Individuals in the United States and many countries lawfully own and use hunting and sporting firearms. The problem of SA/LW proliferation in areas of conflict and political instability is a qualitatively different issue. Casting the net so wide as to ban all firearms is counterproductive.

Similarly, the vast preponderance of SA/LW sold around the world are licensed, fully legal transactions, mostly to governments for national defense and law enforcement purposes. To tar all trade and manufacturing of arms with the same brush as the illicit trade misses the point. Finally, the United States disagrees with proposals to ban sales of SA/LW to non-state actors. Fundamentally, we oppose such a ban in principle because it fails to make the distinction between responsible and irresponsible end-users only whether or not they have status as “governments.” Terrorist groups, insurgents, and drug traffickers acquire arms primarily through illegal diversion, theft and smuggling rather than through legitimate transfers. Therefore, a ban to non-state actors is unlikely to work as intended. It is also important to note that such a ban would preclude assistance to oppressed non-state groups such as an ethnic minority faced with genocide by an oppressive government. Arms acquired through illicit channels are best addressed by improvements in export controls for both state and non-state end-users which we strongly advocate.

Ultimately, simple “one size fits all” solutions are ineffective in dealing with the complex, often region-specific problems caused by the proliferation of small arms and light weapons. Focused efforts to identify and curb the sources and methods of the illicit trade via robust export controls, law enforcement measures, and efforts to expeditiously destroy excess stocks and safeguard legitimate government stocks from theft or illegal transfer are the best ways to attack the problem.